

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

TOWN OF PURCELLVILLE

FOR

BASHAM SIMMS WASTEWATER FACILITY
(VPDES PERMIT NO. VA0022802)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code ' ' 62.1-44.15(8a) and 10.1-1185 between the State Water Control Board and the Town of Purcellville regarding the Basham Simms Wastewater Facility for the purpose of resolving certain violations of the State Water Control Law and Regulations.

SECTION B: Definitions:

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Facility" means Basham Simms Wastewater Facility.
7. "Purcellville" means the Town of Purcellville, Virginia.
8. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
9. "Permit" means Virginia Pollution Discharge Elimination System Permit No. VA0022802.

SECTION C: Findings of Fact and Conclusions of Law

1. Purcellville placed the newly constructed Basham Simms Wastewater Facility on line in April 2002. The Facility discharges wastewater to an unnamed tributary of the North Fork Goose Creek in the Potomac River Basin. Discharges of wastewater are the subject of Permit VA0022802 that was issued August 6, 1999, modified July 25, 2002, and expires on August 6, 2004.
2. The Board has evidence to indicate that the Facility has violated VPDES Permit Regulation 9 VAC 25-31-50.A by exceeding permit effluent limits for: (1) ammonia as nitrogen ("ammonia") in December 2002 and January, February, and March 2003; (2) total kjeldahl nitrogen ("TKN") in February and March 2003; (3) total suspended solids ("TSS") for March 2003; and (4) ammonia and TKN in April and June 2003. DEQ issued one Warning Letter and one Notice of Violation ("NOV") for those apparent violations as follows: WL No. W2003-04-N-1009 issued April 4, 2003; NOV Referral No. W2003-05-N-0001 issued May 8, 2003; and NOV No. W2003-06-N-0001 issued June 9, 2003.
3. In January 2003, Purcellville employed consultants who began evaluating the Facility's treatment systems in order to identify the cause of the effluent limit exceedences. The evaluation identified the cause, in part, as high flows due to wet weather from heavy rainfall and melting snow and cold temperatures during the winter months, with water temperatures ranging between nine and sixteen degrees celcius. These conditions impaired the Facility's nitrification process which, in turn, contributed to the ammonia and TKN exceedences. In

addition, the system evaluation identified design deficiencies in the Facility's flow equalization process that also impair the Facility's nitrification process by reducing treatment time.

4. Based on the evaluations, the Town implemented immediate operational changes at the Facility including, among other things, altering the chemical and biological systems to enhance solids settling and the biological removal of nitrogen and phosphorus. These changes improved the Facility's performance but were not sufficient to ensure consistent compliance with Permit effluent limits.
5. On June 30, 2003, representatives of Purcellville met with DEQ staff to discuss its strategy for bringing the Facility into compliance. During the meeting, Purcellville explained that it planned to implement the remaining recommendations in the evaluations by retrofitting the Facility to correct previously unidentified design deficiencies. Purcellville also requested to enter into a Consent Special Order issued by the Board and that the Order include a construction schedule for the upgrade and interim effluent limits while the upgrade is under construction.
6. As a result of the meeting, Purcellville submitted a plan and schedule for upgrading the Facility to address design deficiencies and to ensure compliance with Final permit effluent limits. The Order also requires that Purcellville evaluate infiltration and inflow into the Facility's collection system. The plan and schedule are incorporated into Appendix A of this Order. The Order also provides interim effluent limits for carbonaceous biological oxygen demand, TSS, ammonia, and TKN while the upgrade is under construction.

SECTION D: Agreement and Order

Accordingly the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a), orders Purcellville, and Purcellville agrees, to perform the actions described in Appendices A and B of this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Purcellville, for good cause shown by Purcellville, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves those violations specifically identified herein, including

those matters addressed in the Warning Letter issued on April 4, 2003, and the NOV's issued May 8 and June 9, 2003, as listed above in Section C2. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Purcellville admits the jurisdictional allegations but not admit the factual findings, and conclusions of law contained herein.
4. Purcellville declares it has received fair and due process under the Administrative Process Act, Va. Code ' 2.2 - 4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
5. Failure by Purcellville to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. Purcellville shall be responsible for its failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Purcellville shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Purcellville shall notify the DEQ Regional Director of NVRO in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order.

Such notice shall set forth:

- a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Purcellville intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 9. This Order shall become effective upon execution by both the Director or his designee and Purcellville. Notwithstanding the foregoing, Purcellville agrees to be bound by any compliance date which precedes the effective date of this Order.
- 10. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Purcellville. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Purcellville from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

By its signature below, the Purcellville voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

The Town of Purcellville voluntarily agrees to the issuance of this Order.

By: _____

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Date: _____

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of

_____, 2003 by _____, who is
(name)

_____ for the Town of Purcellville on behalf of the Town of Purcellville.
(title)

Notary Public

My commission expires: _____.

APPENDIX A SCHEDULE OF COMPLIANCE

Purcellville agrees to:

1. By December 15, 2003, submit to DEQ for review and approval, plans and specifications for upgrading the Facility to correct design deficiencies and to ensure compliance with final Permit effluent limits;
2. Within 90 days of approval of the plans and specifications, begin construction of the Facility upgrade;
3. By March 15, 2005, complete construction of the upgrade in accordance with the approved plans and specifications;
4. Within 60 days of completing construction and issuance by DEQ of the certificate to operate, achieve compliance with final Permit effluent limits;
5. Pending completion of the upgrade, operate the Facility in a manner that produces the best quality effluent of which it is capable in order to minimize any additional exceedences of the ammonia, TKN, TSS, and cBOD₅ Permit effluent limits and impacts to water quality that may occur while the upgrade is under construction; and
6. By December 30, 2004, submit to DEQ for review and approval, an evaluation of infiltration and inflow (I/I) into the Facility's collection system. The evaluation shall include, at a minimum, the following items: (a) an I/I analysis; (b) a Sewer System Evaluation Survey (SSES); (c) a survey report with cost/benefit analysis; and (d) a rehabilitation plan and schedule including a strategy and schedule for long-term and continued evaluation and analysis of the collection system. Upon approval by DEQ, the rehabilitation plan and schedule shall become an enforceable part of this Order.

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